

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Jefferey Mercer
Plaintiff

DOCKET NUMBER:

SECTION:

VS.

JUDGE:

McKenzie Tank Lines, Inc. and Gerald Williams
Defendants

MAGISTRATE:

UNDER TITLE: Diversity
Jurisdiction 28 U.S.C. 1332

COMPLAINT FOR DAMAGES

JURISDICTION AND VENUE:

Plaintiff, Jefferey Mercer is a person of full age and majority domiciled in Harris County, Texas. Plaintiffs allege acts of negligence against defendants pursuant to 28 U.S.C., 1332, diversity of citizenship of the parties. The underlying motor vehicle collision occurred in Houston, Texas, which is within the territorial bounds of the Southern District of Texas. Furthermore, the amount in controversy as to each party in this matter exceeds the jurisdictional limits of this Honorable Court of \$75,000.00. Consequently, jurisdiction of this Honorable Court is proper. By virtue of the existence of diverse parties, this Honorable Court has subject matter jurisdiction over this claim as follows:

A)First named Defendant is **McKenzie Tank Lines, Inc**, who upon information and belief is a foreign company Domiciled in Tallahassee, Florida, USA and was authorized

to do and doing business within the jurisdictional bounds of this court including but not limited to Harris County, Texas, who resides and may be served at 11500 Choate Road, City of Pasadena, Harris County Texas, USA; and who at all times mentioned herein was the owner of the 2004 International Tractor Trialer Vin No.: 3HSCNASR54N093649 involved in the underlying motor vehicle collision that occurred on May 30, 2017; and who is vicariously responsible responsible under the theory of respondeat superior for the actions of its employee **Defendant, Gerald Williams** who was at all times complained here in within was in the course and scope of employment

B)Second named **Defendant, Gerald Williams** is a person of the full age of majority domiciled Mount Holly, North Carolina, USA, and was authorized to do and doing business within the jurisdictional bounds of this court including but not limited to Harris County, Texas who may be served who at all times mentioned herein was in the the permissive operator of the 2004 International Tractor Trialer Vin No.: 3HSCNASR54N093649 involved in the underlying motor vehicle collision that occurred on May 30, 2017, and who was at all times complained here in within was in the course and scope of employment **Defendant, McKenzie Tank Lines, Inc,**

COUNT 1 - CAUSE OF ACTION:

1. All of the aforementioned defendants are jointly, severally and in solido liable unto plaintiff for a reasonable sum in the premises, together with legal interest thereon from date of judicial demand until paid, and for all costs of these proceedings for the following reasons to wit:

2. On or about May 30, 2017, at approximately 2:45 a.m., Plaintiff, Jefferey Mercer, was the operating a 2013 Freight Tractor Georgia Lic Plate No.: IC85GD South bound on I-65 between its intersection with AL 100 and Ebenezer Road, in Butler County, Alabama, USA.

3. At the approximately the same time and place, **Defendant, Gerald Williams** , operating a International Tractor Trialer Vin No.: 3HSCNASR54N093649, at a high rate of speed directly behind Plaintiff, Jefferey Mercer 2013 Freight Tractor Georgia Lic Plate No.: IC85GD when suddenly, unexpectedly and without warning Defendant **Defendant, Gerald Williams**, violently struck the rear of plaintiffs' vehicle causing severe damage to person and property.

COUNT 2 – NEGLIGENCE;

5. Defendants, McKenzie Tank Lines, Inc. and Gerald Williams are liable unto Plaintiff for their own negligence and the negligence of said employee and permissive driver, in addition to the following which includes but is not limited to the following:

- a. Failure to keep a proper lookout;
- b. Following too closely;
- c. Failure to exercise reasonable vigilance;
- d. Failure to maintain reasonable and proper control of her vehicle;
- f. Operating the vehicle under her control in a reckless and negligent manner;
- g. Failure to see what she should have seen;
- h. Negligence per se;
- i. Negligent entrustment;

- j. Gross Negligence;
- k. Improper training, failure to properly supervise its employee ;
- l. Any and all other acts of negligence which might be shown at the time of this trial.

COUNT 3 – DAMAGES

6. As a result of the aforementioned incident, **Plaintiff, Jefferey Mercer**, suffered severe injuries to her body, which included but not are not limited too: multiple bulging and herniated disk requiring corrective surgery, sprains and strains of the spine multiple bruises cuts and scraps in addition to pain and physical discomfort.

COUNT 4 - RELIEF SOUGHT

7. **Plaintiff, Jefferey Mercer** is entitled to an amount in damages reasonably calculated to compensate him for injuries he sustained which included but not limited to:

- 1)a. Past, present, and future mental pain, suffering and anguish;
- 2)b. Past, present, and future physical pain and suffering and loss of function;
- 3)c. Past, present, and future medical expenses;
- 4)d. Past, Present and future lost wages;
- 5)e. Loss of enjoyment of life;
- 6)f. loss of property; and
- g. Any and all other damages cognizable by the Constitution of the State of
- 7) Texas and the United States Constitution.

Demand

Plaintiffs made demand Pursuant to G. A. Stowers Furniture Co. v. American Indemnity Co 15 S.W.2d 544 (Tex. Comm. App. 1929, holding approved) to no avail.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Jefferey Mercer prays that this Complaint be filed and that Defendants, McKenzie Tank Lines, Inc. and Gerald Williams, be duly cited and served with a copy of same, to appear and answer same and after all legal delays and due proceedings are had that there be judgment herein in favor of Plaintiff, Jefferey Mercer and against Defendants, McKenzie Tank Lines, Inc. and Gerald Williams, jointly severally and in solido in an amount reasonably calculated to compensate Plaintiff for his damages, together with legal interest thereon, from date of judicial demand until paid and for all costs of the proceedings and all general and equitable relief this Honorable Court deem necessary.

Respectfully submitted,

DENNIS SPURLING *PLLC*
ATTORNEYS AT LAW AND FRIENDS

/s/Dennis D. Spurling

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